

MT LEGISLATIVE HISTORY

Chapter 401 19 75

Bill H 424 S _____

Original bill & hist. ____C

H. Committee on Jud

S. Committee on Bus. & Ind.

Hearing Date(s) 1/28 ____C

Hearing Date(s) 3/7 ____C

2/13 ____C

3/2 ____C

2/21 ____C

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3/14 ____C

2/24 ____C

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Date Out _____C

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Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

1405

1 *House* BILL NO. *424*
2 INTRODUCED BY *Mr. [Signature]*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE SUBSIDIARY
5 TRUST COMPANIES TO HAVE ONE OR MORE TRUST OFFICES; TO
6 AUTHORIZE CERTAIN BANKS TO MAINTAIN ONE OR MORE TRUST
7 OFFICES; TO PROVIDE FOR SUBSTITUTION IN FIDUCIARY
8 CAPACITIES; TO AMEND SECTION 86-905, R.C.M. 1947; AND TO
9 PROVIDE AN IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Short title. This act may be cited as "The
13 Subsidiary Trust Company Act of 1975".

14 Section 2. Definitions. As used in this act: (1)
15 "subsidiary trust company" means any corporation which is
16 incorporated under the banking laws of this state and any
17 national banking association having its main office in this
18 state more than fifty percent (50%) of the voting stock of
19 which is owned by an owning bank holding company and which
20 has as its purposes any one or more of the purposes
21 described in section 5-106, except that a subsidiary trust
22 company may not be empowered to accept deposits except those
23 deposits incidental to its trust business.

24 (2) "affiliated bank" with respect to a subsidiary
25 trust company, means any bank incorporated under the laws of

1 this state and any national banking association having its
2 main office in this state more than fifty percent (50%) of
3 the voting stock of which is owned by the same owning bank
4 holding company that owns more than fifty percent (50%) of
5 the voting stock of the subsidiary trust company.

6 (3) "affiliated bank" with respect to another bank
7 which is not a subsidiary trust company, means any bank
8 incorporated under the laws of this state and any national
9 banking association having its main office located in this
10 state more than fifty percent (50%) of the stock of which is
11 owned by the same owning bank holding company that owns more
12 than fifty percent (50%) of the voting stock of such other
13 bank.

14 (4) "owning bank holding company", with respect to a
15 subsidiary trust company or an affiliated bank, means a bank
16 holding company as defined in the United States Bank Holding
17 Company Act of 1956, as amended.

18 (5) "main office", with respect to a subsidiary trust
19 company or an affiliated bank, is the place designated in
20 the articles of incorporation or articles of association of
21 that subsidiary trust company or affiliated bank at which
22 its principal functions are to be conducted.

23 (6) "trust office", with respect to a subsidiary trust
24 company, means an office, including the main office, of the
25 subsidiary trust company maintained for the purpose of

INTRODUCED BILL

1 conducting its business.

2 (7) "trust office", with respect to a bank which is
3 not a subsidiary trust company, means an office other than
4 the main office of that bank maintained solely for the
5 purpose of conducting trust business as described in section
6 4.

7 (8) "fiduciary capacity" means a capacity resulting
8 from a bank undertaking to act alone or jointly with others
9 primarily for the benefit of another in all matters
10 connected with its undertaking and includes the capacities
11 of trustee (including trustee of a common trust fund),
12 executor, administrator, personal representative, registrar
13 or transfer agent with respect to stocks, bonds or other
14 evidences of indebtedness of any corporation, association,
15 municipality, state or public authority, guardian or
16 estates, receiver, conservator, escrow agent, agent for the
17 investment of money, attorney-in-fact and any other similar
18 capacity.

19 Section 3. Organization of subsidiary trust companies.
20 A subsidiary trust company shall be incorporated under the
21 laws of this state in accordance with, and subject to, the
22 provisions of chapter 2 of Title 5, R.C.M. 1947, or under
23 the laws of the United States. To the extent not
24 inconsistent with the provisions of this chapter, any
25 subsidiary trust company incorporated under the laws of this

1 state shall be subject to the laws of this state generally
2 applicable to trust companies. A subsidiary trust company
3 formed under the laws of the United States, shall be
4 subject, to the extent provided by the laws of the United
5 States, to the laws of this state applicable to subsidiary
6 trust companies incorporated under the laws of this state.

7 Section 4. Permissible business of subsidiary trust
8 companies. The permissible business of a subsidiary trust
9 company shall be to engage in trust business as may be
10 engaged in by a trust company under section 5-106 and
11 business incidental thereto. A subsidiary trust company
12 shall accept only those deposits incidental to the trust
13 business conducted by it.

14 Section 5. Trust offices of subsidiary trust
15 companies. Notwithstanding the provisions of section 5-1028,
16 a subsidiary trust company may have a trust office at any
17 one or more locations in this state in the same building
18 with the main office of any affiliated bank, but not
19 elsewhere.

20 Section 6. Trust offices of affiliated banks.
21 Notwithstanding the provisions of section 5-1028, a bank
22 having trust powers may be authorized by the department of
23 business regulation or by the comptroller of the currency,
24 in the case of a national banking association, to maintain a
25 trust office at any one or more locations in this state in

1 the same building with the main office of any affiliated
2 bank.

3 Section 7. Transfer of fiduciary relationships from
4 affiliated banks to subsidiary trust companies. (1) Upon
5 authorization of any subsidiary trust company to commence
6 the business for which it is organized, that subsidiary
7 trust company may file an application in the district court
8 of the county in which its main office is located requesting
9 that it be substituted, except as may be expressly excluded
10 in the application, in every fiduciary capacity for each of
11 its affiliated banks specified in the application, and each
12 such specified affiliated bank shall join in the
13 application. Upon finding that the subsidiary trust company
14 is authorized to commence the business for which it is
15 organized by the department of business regulation, or the
16 comptroller of the currency if the subsidiary trust company
17 is a national banking association, the district court shall
18 enter an order substituting the subsidiary trust company in
19 every fiduciary capacity for each of its specified
20 affiliated banks, except as may be otherwise specified in
21 the application. The application may be made ex parte and
22 need not list the fiduciary capacities in which substitution
23 is made. Upon entry of this order, the subsidiary trust
24 company shall be substituted, in every such fiduciary
25 capacity, and the substitution may be evidenced by filing a

1 copy of the order with the clerk of any district court in
2 this state or by delivery for recording a copy of the order
3 to the clerk and recorder of any county in this state. That
4 officer shall index the order as other recorded orders and
5 decrees are indexed.

6 (2) Each prior or succeeding designation in a will or
7 other instrument executed by a bank as fiduciary shall be
8 considered a designation of the subsidiary trust company
9 substituted for that bank under this section, except where a
10 will or other instrument is executed after the above
11 substitution and it expressly negates the application of
12 this section. Any grant in any such will or other
13 instrument of any discretionary power shall be considered
14 conferred upon the subsidiary trust company considered
15 designated as the fiduciary under this section.

16 (3) A bank shall account jointly with the subsidiary
17 trust company which has been substituted as fiduciary for
18 that bank under this section for the accounting period
19 during which the subsidiary trust company is initially
20 substituted. Upon substitution under this section, the bank
21 shall deliver to the subsidiary trust company all assets
22 held by the bank as fiduciary (except assets held for
23 accounts with respect to which there has been no
24 substitution under this section) and upon this substitution
25 all those assets shall become the property of the subsidiary

1 trust company without the necessity of any instrument of
2 transfer or conveyance.

3 Section 8. Transfer of fiduciary relationships between
4 affiliated banks. (1) Any bank which has received
5 approval, under section 6, to maintain a trust office in the
6 same building with the main office of any affiliated bank,
7 may file an application in the district court in which its
8 main office is located, requesting that it be substituted,
9 except as may be expressly excluded in the application, in
10 every fiduciary capacity for the affiliated bank, and that
11 affiliated bank shall join in the application. Upon finding
12 that the bank filing an application has received the
13 requisite approval from the department of business
14 regulation or the comptroller of the currency, the district
15 court shall enter an order substituting the bank in every
16 fiduciary capacity for this affiliated bank, except as may
17 be otherwise specified in the application. Such application
18 may be made ex parte and need not list the fiduciary
19 capacities in which substitution is made. Upon entry of
20 this order, the bank shall be substituted, without further
21 act, in every such fiduciary capacity, and the substitution
22 may be evidenced by filing a copy of the order with the
23 clerk of any district court in this state or by delivery for
24 recording a copy of the order to the clerk and recorder of
25 any county in this state. That officer shall index the

1 order as other recorded orders and decrees are indexed.

2 (2) Each prior or succeeding designation in a will or
3 other instrument executed by a bank as fiduciary shall be
4 considered a designation of the affiliated bank substituted
5 for that bank under this section, except where a will or
6 other instrument is executed after the above substitution
7 and expressly negates the application of this section. Any
8 grant in any such will or other such instrument of any
9 discretionary power shall be considered conferred upon the
10 affiliated bank considered designated as the fiduciary under
11 this section.

12 (3) A bank shall account jointly with the affiliated
13 bank which has been substituted as fiduciary for that bank
14 under this section for the accounting period during which
15 the affiliated bank is initially substituted. Upon
16 substitution under this section, the bank for which
17 substitution has been made shall deliver to the affiliated
18 bank all assets held by the bank as fiduciary (except assets
19 held for accounts with respect of which there has been no
20 substitution under this section) and upon this substitution
21 all those assets shall become the property of the affiliated
22 bank without the necessity of any instrument or transfer of
23 conveyance.

24 Section 9. Section 86-905, R.C.M. 1947, is amended to
25 read as follows:

1 "86-905. Transfer of office prohibited. The Except as
2 provided in sections [7 and 8 of this act], the trustee
3 shall not transfer his office to another or delegate the
4 entire administration of the trust to a co-trustee or
5 another."

6 Section 10. Effective date. This act is effective on
7 its passage and approval.

-End-

March 12, 1975

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

Chairman Regan called the meeting of the Business and Industry Committee to order on the above date in room 404 of the State Capitol Building. The meeting was called to discuss House Bills 400, 416, 424, and 426.

ROLL CALL: All members of the Committee were present with the exception of Senator Devine who was excused.

House Bill 400: Representative Harper presented the bill to the Committee. This bill would provide for licensing of businesses which manufacture, sell, service, and install fire extinguishers, fire alarms, and fire extinguishing systems, and provide an effective date. This bill was amended in the house to include funding. Ben Larango, Missoula Fire Equipment, felt this law is needed to protect people and control the people who sell fire extinguisher systems. Neil Flaherty, Fire Protection Consultants, felt this regulation is necessary. Dan Meizner, Montana League of Cities and Towns, stated that many fire systems are installed wrong. There should be some way of protecting the people. Bob Kelly, Montana Fire Chief, stated that many people have fire systems installed and when they are inspected they find they have been installed wrong. A brief discussion period followed with questions from the Committee.

House Bill 416: Representative Lien presented the bill to the Committee. He stated that this bill will correct the present statute. Ed Carney, Department of Professional and Occupational Licensing, has a prepared statement attached. A brief discussion period followed with questions from the Committee.

House Bill 426: Representative Kimble presented the bill to the Committee. This bill would regulate consumer reporting agencies operating in Montana. He further stated that this bill is a duplication of the federal law. Gil Kock, Credit Bureau of Missoula, opposed the bill because of its cost to the state. He felt that if the Committee were to pass this bill there should be some changes. Page 2, line 2, definition of consumer report. Page 6, section 6, line 8 and line 24. He also requested that section 3 be deleted in its entirety. Doug Klien, Credit Bureau, Hamilton, stated that legislation should benefit the people. A brief discussion period followed with questions from the Committee.

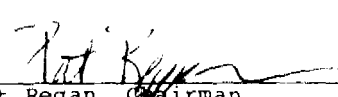
House Bill 424: Representative Moore presented the bill to the Committee. This bill would authorize subsidiary trust companies to have one or more trust offices; to authorize certain banks to maintain

one or more trust offices; to provide for substitution in fiduciary capacities; to amend section 86-805, R.C.M. 1947; and to provide and effective date. Dan Dykstra supported the bill. Mr. Dykstra represented the Northwestern Bank and Union Trust Company. A prepared statement is attached. George Beal, Montana Bankers Association, stated that trust companies are a difficult business for anyone. This bill is good legislation and he recommended a do pass. Ross Cannon, supported the bill. A prepared statement is attached.

Opponents to the bill and there statements follow. A. E. Riegle, Montana Independent Bankers Association, stated that this bill does not clearly state what a trust company can do. Pat Kirby, Montana Independent Bankers Association, stated that this bill circumvents the federal legislation. John Tierney, Trust Corporation, stated that this bill means that you would be authorizing out-of-state banks to cross the state line and start a new bank here.

Representative Moore, in closing, stated that he received two calls from the Montana Independent Bankers Association in support of this bill. There is still a trust officer under this bill. A lengthy discussion period followed with questions from the Committee.

ADJOURN: There being no further business Chairman Regan adjourned the meeting at 1:00 a.m.


Pat Regan, Chairman

Chairman, and
Members of the Committee:

I am Daniel Dykstra, Vice President and Trust Officer
of Northwestern Bank & Union Trust Co., Helena, Montana.
I am appearing before you in support of House Bill No. 424.

A trust institution is not involved in banking. We do not
accept deposits, have checking or savings account, nor are
we in any way involved in commercial banking functions.

By law, a trustee is required to keep trust funds invested;
we are involved with investing and managing other people's
property. This requires specialists in investment and
estate management.

House Bill No. 424 permits this expertise to be better
utilized through the use of a subsidiary trust company.

Most banks do not solicit trust business, nor do they have
trust powers. The cost of maintaining a qualified staff
and operating a trust department has caused most Montana
banks to look to others for trust service. This Bill in
no way affects that arrangement.

This Bill will result in the more efficient handling of trust
business for Montanans and will do so on a more economical
basis.

Daniel Dykstra

H. B. 424

CONSOLIDATION OF TRUST FACILITIES

Purpose: HB 424 will permit a bank system having trust departments in its affiliated banks to consolidate them into a separate subsidiary trust company (Sections 2, 3, and 4). Once organized the subsidiary trust company can be substituted in all trust capacities for the affiliated bank. Such substitution must be approved by the court after notice to persons beneficially interested. (Section 7) A bank with trust powers may also be substituted in all trust capacities for other affiliated banks. (Section 8)

In order to provide administration of trust accounts locally this measure will authorize a subsidiary trust company (Section 5) or a bank with trust powers (Section 6) to maintain a trust office in an affiliated bank.

Need for Legislation: HB 424 would permit affiliated banks within a system to combine a number of trust functions. An example is computerized accounting to provide trust customers with more detailed information than is now the case. Combining technical and investment expertise would be another advantage. The recently enacted Pension Reform Act is an example of an area now requiring full-time expertise. Other areas requiring full-time expertise include investment of trust assets, taxes, probate administration and farm and ranch management. Trust customers will be better served by consolidating these "backroom" operations and thereby

March 14, 1975

Executive Session
6:00 p.m.

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

The meeting of the Business and Industry Committee was called to order by Chairman Regan on the above date in room 404 of the State Capitol Building. The meeting was called to take executive session on House Bills 424, 280, 518, 416, 400, 426, and 623.

ROLL CALL: All members of the Committee were present with the exception of Senator Devine who was excused.

House Bill 424: Senator Towe moved the amendments. Prepared amendments attached. All were in favor with Senators Devine and Kolstad absent and Senator Foster voting no. Senator Greely moved the bill be concurred in as amended. All were in favor.

House Bill 280: Senator Towe moved the amendments. Prepared amendments attached. All were in favor with Senators Rosell, Kolstad, and Hazelbaker voting no. Senator Towe moved the bill be concurred in as amended. Motion failed with Senators Rosell, Kolstad Hazelbaker, and Foster opposed.

House Bill 518: Senator Greely moved the amendments. Prepared amendments attached. All were in favor. Senator Greely moved the bill be concurred in as amended. All were in favor.

House Bill 416: Senator Towe moved the attached amendments. All were in favor. Senator Foster moved the bill be concurred in as amended. All were in favor with Senator Greely abstaining.

House Bill 400: Senator Regan moved the attached amendments. All were in favor. Senator Regan moved the bill be concurred in as amended. All were in favor.

House Bill 426: Senator Rosell moved the amendments. Prepared amendments attached. All were in favor with Senators Foster and Kolstad absent for the vote. Senator Greely moved the bill be concurred in as amended. All were in favor with Senators Foster and Kolstad absent for the vote.

House Bill 623: Senator Greely moved the bill be concurred in. All were in favor with Senators Foster and Kolstad absent for the vote and Senators Rosell and Towe opposed.

ADJOURN: There being no further business Chairman Regan adjourned the meeting at 7:15 p.m.


Pat Regan, Chairman

STANDING COMMITTEE REPORT

March 17

1975

MR. PRESIDENT

We, your committee on Business and Industry

having had under consideration House

Bill No. 424

Respectfully report as follows: That House Bill No. 424,

third reading bill, be amended as follows:

1. Amend page 1, section 2, lines 22 and 23.
Following: "accept deposits"
Strike: "except those deposits incidental to its trust business"
Insert: "or otherwise to conduct commercial banking business"
2. Amend page 4, section 4, lines 12 and 13.
Following: "shall"
Strike: "accept only those deposits incidental to the trust business conducted by it"
Insert: "not accept deposits or otherwise conduct commercial banking business"
3. Amend page 4, section 5, line 18.
Following: "bank"
Insert: "which, on January 1, 1975, was authorized to act in fiduciary capacities"

~~XXXXXX~~
DO PASS

4. Amend page 6, section 6, line 2.
Following: "and"
Insert: "which, on January 1, 1973, was authorized to act in
fiduciary capacities"
4. Amend page 10, section 7, line 1.
Following: ~~Substitutions~~
Strike: "ON JANUARY 1, 1973, THE BOARD OF DIRECTORS OF THE COMPANY
TO BE THE BOARD OF DIRECTORS OF THE COMPANY"
6. Amend page 10, section 7, lines 24 and 25.
Following: "SECTION"
Strike: "AND THE BOARD OF DIRECTORS OF THE COMPANY SHALL
SUBSTITUTIONS BE REQUIRED"
7. Amend page 10, section 7, line 14.
Following: line 14
Strike: "SUBSTITUTIONS"
Insert: "Substitution"
8. Amend page 10, section 9, lines 15 through 17.
Following: "ACCOUNT"
Strike: "ON JANUARY 1, 1973, THE BOARD OF DIRECTORS OF THE COMPANY
SHALL BE REQUIRED TO SUBSTITUTIONS BE REQUIRED"
9. Amend page 10, section 9, lines 23 and 24.
Following: "SECTION"
Strike: "ON JANUARY 1, 1973, THE BOARD OF DIRECTORS OF THE COMPANY
SHALL BE REQUIRED TO SUBSTITUTIONS BE REQUIRED"
10. Amend page 10, section 9, lines 12 and 13.
Following: "SECTION"
Strike: "ON JANUARY 1, 1973, THE BOARD OF DIRECTORS OF THE COMPANY
SHALL BE REQUIRED TO SUBSTITUTIONS BE REQUIRED"
11. Amend page 10, section 10, lines 1 through 7.
Following: "SECTION"
Strike: "ON JANUARY 1, 1973, THE BOARD OF DIRECTORS OF THE COMPANY
SHALL BE REQUIRED TO SUBSTITUTIONS BE REQUIRED"
12. Amend page 10, section 10, line 1.
Following: "AND"
Strike: "AND"
Insert: "AND"
13. Amend page 10, section 10, line 1.
Following: "COMPANY"
Strike: "AND"
Insert: "provided that no such trust company may accept deposits
or otherwise conduct commercial banking business."

AND AS SO AMENDED, BE CONCURRED IN.

JUDICIARY COMMITTEE

44th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 412	To extend the scope of the open meetings law: amending sections 82-3402 & 94-7-401, RCM 1947, repealing section 76-6127, RCM 1947.	1/28/75	Meloy	2/12/75	DO PASS	2/15/75
HB 419	To require the attorney general to supply a brief statement of the implication of a vote for or against a proposition on the ballot beside the diagram where the voter, etc.	1/28/75	Richards	2/14/75	DO PASS AS AMENDED	2/14/75
HB 420	To establish procedures for the composition, submission & printing of arguments advocating approval or rejection of initiative & referendum measures, & amending, etc.	1/28/75	Richards	2/14/75	DO PASS AS AMENDED	2/14/75
HB 421	To allow public officers & employees to participate in election campaigns & to protect them from undue employer influence; providing for notice of provisions, etc.	1/28/75	Richards	2/18/75	2/19/75 tabled	
HB 424	To authorize subsidiary trust companies to have one or more trust offices; to authorize certain banks to maintain 1 or more trust offices; to provide for substitution, etc.	1/28/75	James Moore	2/13/75	2/21-DO NOT PASS hold in committee DO PASS AS AMENDED	2/24/75
HJR 33	Joint resolution of Senate & House of St. of Mt. endorsing the concept of defining obscenity by local contemporary community standards as such concept was enunciated by U.S. Supreme Court.	1/28/75	Helmbrecht	2/14/75	2/14-Table as amended	

Representative Halvorson questioned how you would differentiate between new and old political issues. Representative Bardonoue replied that a new political issue would be bringing up a voting record. Representative Moore stated that taking the language as is, it seemed that under section four if you pulled a Wilbur Mills and were put in jail which is a fact under section two you would be guilty under section five.

Representative Yardley stated that any time you put a penalty on a criminal act you have to be very specific as to what the act is. Following a few other questions and comments the hearing was closed.

HOUSE BILL NO. 424 Representative James Moore, District #18, is chief sponsor of this act to authorize subsidiary trust companies to have one or more trust offices, to authorize certain banks to maintain one or more trust offices and to provide for substitution in fiduciary capacities. Representative Moore stated this bill is essentially a consolidation of the trust functions bill and he will turn remainder of testimony over to the experts. He stated there are many members present, all will not testify but are available for questions.

Proponent Harold Pitts, representing the Department of Business Regulation, stated they feel this bill will render better trust service to Montana. Trust service is a complicated, complex business. In Montana maybe all of twenty five people are qualified to handle this function. Stated that if we can do anything to render trust functions to the people of Montana we should. Proponent George Beal stated he speaks in support of this bill, the Montana Bankers Association has endorsed it.

Proponent Ed Jasmine, a Great Falls banker, stated they were presently going through the process of analyzing the services they render to people. With the existing law or lack of laws they would have problems putting in a trust section. He feels the key point of this bill is enabling legislation that would allow transfer of funds. Urged support of the bill.

Proponent Ross Cannon stated the language of the bill bristles, it brings together in one place more expertise but there is nothing in the bill designed to adversely affect any instate bank. Would like to propose some amendments to this bill. Stated this is really a foundation piece of legislation.

Proponent Representative Jay Fabrega stated he supports this piece of legislation. Feels Montana will be better served with a trust set up. No other proponents.

Opponent All Riegel, representing the Montana Independent Bankers, stated they oppose this. The small banks won't be able to set up trust funds. (see prepared statement)

Opponent Gene Tierney, president of the Trust Company of Montana, stated that section two of this bill says this applies to bank holding companies of which there are four in the state. He thinks this law will deny the provision to stay with a small bank if the people want. Feels the big banks want to consolidate this lion's share of the business into even bigger companies. Feels this bill will infringe on the independent bankers.

No other opponents. Representative Moore, in closing, stated that as an attorney he sees two types of demands for trusts. The first is essentially a private trust and the other is a tremendous investment by way of incorporating something into a trust. Large out of state companies draw business from Montana. Feels the trust function is so distinct that people want it where there was the greatest expertise but would keep their checking and savings accounts in local banks. Similar legislation is being offered for enactment now in many states. People can't keep their trusts local now.

Representative Halvorson questioned if trust officers in small banks are limited by the amount of money or what. Mr. Tierney replied that this has nothing to do with money or size of department, it is only enabling present trusts to allow subsidiaries. He suggested amendatory language for definition of subsidiary trust company.

Representative Yardley questioned whether reference to "application" on page 5 has anything to do with the individual they wanted to be included and was told there may be. He then questioned section seven regarding the request of petition made by a subsidiary trust, then in lines 13 and 17 he can't see where they have any discretionary power. Mr. Cannon replied that they could provide some notice of hearing instruments to solve this problem. Representative Yardley stated it all appears to be automatic with no opportunity to protest by the owner. Mr. Cannon replied that the original trustee has usually been dead for years. It wouldn't be a bad idea to provide notice to the trustor.

Hearing was then closed.

HOUSE BILL NO. 402 Representative James Sloan, District #17, is chief sponsor of this act to include in the definition of official misconduct the act of inducing a person to commit a criminal act. He stated the first portion of bill is fairly self explanatory and all it does is put in a new paragraph. The second section attempts to tip a fine balance between incited and induced. Today the presumption falls on the defendant because the only other way is if the cause of the act without entrapment is to get to it through 94-4-404. In the event there is actually entrapment with this provision a person guilty is in the same position as the offender but public officials aren't falling under this. He feels this is a good bill.

HOUSE BILL NO. 424 Representative Moore moved DO PASS AS AMENDED.
A list of amendments was provided to committee members.

Following discussion division of the question was called for. Representative Moore moved the amendments. Motion to amend carried.

Representative Seifert moved DO NOT PASS. Representative Moore made a substitute motion of DO PASS AS AMENDED. Motion failed with a roll call vote. The bill will be reported out DO NOT PASS.

HOUSE BILL NO. 442 Representative Moore moved to amend so that every place where it says "actual" it will say "general". Discussion followed on changing the original purpose of the bill. The argument was made that we don't need this bill because of case actions.

Motion to amend by inserting section "64-207.1" into the bill on page 1, line 10 and to change "actual" to "general" was made. Motion to amend carried.

Representative Yardley moved to refer the bill to the Rules Committee. All committee members agreed with this.

Motion DO PASS AS AMENDED carried.

HOUSE BILL NO. 496 Representative Kimble moved DO PASS AS AMENDED with amendment to page 2, line 20 following "in any" by inserting "tort"; amend title, line 6 following "insurers" by striking "of motor vehicles", page 2, line 20 by striking "caused by the negligent operation, management or control of a motor vehicle," and also amend page 2, line 22 following "insurer" by striking "of motor vehicles,".

Motion to amend carried. Representative Moore moved DO PASS AS AMENDED. Motion carried with a roll call vote.

HOUSE BILL NO. 534 Representative Yardley moved DO NOT PASS. Representative Halvorson stated this is the same old thing about inheritance laws - there is a study coming up, she has no objection to this but suggested getting the study.

A substitute motion was made by Representative Day to defer. Representative Meloy stated there is a problem with the big corporations. Other problem is the inheritance tax is a problem but a bigger problem is the federal estate tax and this bill doesn't touch on that problem.

Motion DO NOT PASS carried with Representatives Day, Vincent, Meloy and Hager voting no.

of people being landowners in order to vote on local issues. Representative Moore questioned if there wasn't something in the sewer or water district law which provides every one should be able to vote with weighted law according to the amount of land they own to which he was told this applies to irrigation districts only.

There were no further questions and the hearing was closed.

EXECUTIVE SESSION

HOUSE BILL NO. 594 Representative Rasmussen stated that he had learned that the state insurance office was in favor of this bill. Diana Dowling reported that Sonny Omholt's office backs this bill.

The committee decided to pass on this bill for today because one of the committee members not present had some amendments he wished to propose to this bill.

HOUSE BILL NO. 263 Representative Meloy moved DO PASS. Following brief discussion motion carried with Representatives Hager, Seifert and Anderson voting no.

HOUSE BILL NO. 44 Representative Lory moved DO NOT PASS on this annual sessions bill by Representative Teague. Representative Rasmussen made a substitute motion of DO PASS which failed with Representatives Rasmussen, Seifert and Day voting yes.

The original motion DO NOT PASS carried with Representatives Rasmussen, Day and Seifert voting no.

HOUSE BILL NO. 424 Representative Day stated the reason the committee killed this bill was because it went against small bankers. Representative Moore moved to reconsider this bill. Motion carried unanimously.

Each committee member was provided with a set of amendments which were written up by Mr. Ross Cannon, and presented to committee by one of the members.

Representative Moore moved the amendments. Motion carried. Representative Seifert moved AS AMENDED DO PASS. Motion carried with Representatives Halvorson and Lester voting no, Representative Yardley abstained.

HOUSE BILL NO. 602 Representative Meloy moved the amendments, a copy of which had been provided to each committee member. Motion to adopt amendments carried.

Representative Meloy moved DO PASS AS AMENDED. Motion carried with Representatives Hager and Seifert voting no, Representative Rasmussen and Day abstaining.

HOUSE BILL NO. 594 Representative Meloy moved the amendments to this bill which were provided to the committee. Motion

Mr. Speaker:

We, your committee on Judiciary, having had under consideration House Bill No. 424 respectfully report as follows: That House Bill No. 424, introduced bill, be amended as follows:

1. Amend page 3, section 2, subsection (8), line 15
Following: "guardian"
Strike: "or"
Insert: "of"
2. Amend page 4, section 4, line 9
Following: "in"
Insert: "such"
3. Amend page 4, section 4, line 10
Following: "and"
Insert: "such"
4. Amend page 4, section 4, line 11
Following: "business"
Insert: "as is"
5. Amend section 7, *Sec. 7, 2nd Sec. 2038*
Strike: Section 7 in its entirety
Insert: "Section 7. Transfer of fiduciary relationships from affiliated banks to subsidiary trust companies. (1) Upon any subsidiary trust company being duly authorized to commence the business for which it is organized, such subsidiary trust company may file its verified application in the district court of the county in which its main office is located requesting that it be substituted, except as may be expressly excluded in such application, in every fiduciary capacity for each of its affiliated banks specified in the application, and each such specified affiliated bank shall join in such application. Such application shall indicate the county wherein the main office of each affiliated bank joining in the application is located and shall designate each fiduciary account existing at the date thereof with respect to which such subsidiary trust company requests substitution. Such application shall additionally set forth, with regard to each existing fiduciary account designated therein, the name and address last known to the applicant of each person entitled to mailed notice of hearing thereon, to-wit:

(a) in the case of an existing fiduciary account which may be revoked, terminated or amended, each person who, alone or together with others, is empowered to revoke, terminate or amend the same;

(b) in the case of an existing fiduciary account with respect to which any person other than a court has the power to remove the corporate fiduciary, each person who, alone or together with others, is empowered to remove the corporate fiduciary;

#1 but fiduciary application in order
must make notice

(c) in the case of an existing fiduciary account which is an estate of a deceased person or which is a guardianship or conservatorship, to the clerk of the court in which such estate, guardianship or conservatorship matter is pending;

(d) in the case of an existing fiduciary account not described in any of the foregoing subparagraphs, to each income beneficiary of such account and to each beneficiary who, were such account terminated at the date of the application respecting such account, would be entitled to share in distributions of income or principal thereof; and

(e) in the case of any existing fiduciary account wherein an affiliated bank specified in the application is acting with a co-fiduciary, to each such co-fiduciary at his last known address.

(2) When any such application shall have been filed, the clerk of the court where filed shall make an order fixing a date and time for hearing thereon and give notice thereof as hereinafter provided. The clerk of court shall cause a copy of such notice to be published at least once a week for three (3) successive weeks preceding the hearing date, the first such publication to be at least twenty-five (25) days preceding the hearing date, such publication to be in a newspaper of general circulation published in each county in which the main office of an affiliated bank specified in the application is located, or if in any case there be no such newspaper, then in a newspaper of general circulation published in a contiguous county. In addition, at least twenty-five (25) days preceding the hearing date, the clerk of the court shall cause a copy of such notice to be mailed by first class mail to each person identified in the application as being entitled to mailed notice under the provisions of this act, at his address last known to the applicant as set forth in the application.

(3) The notice to be published and mailed with respect to each such application shall state the time and place of the hearing thereon, the name of the subsidiary trust company which has filed the application, the name of each affiliated bank which has joined in such application, that the application requests that the subsidiary trust company be substituted in every fiduciary capacity for each of its affiliated banks specified in the application, and that any person beneficially interested in any affected fiduciary account may appear on or before the date of hearing and file his written objection to such substitution as to such affected fiduciary account on the sole ground that the subsidiary trust company is unfit to act with respect to such affected fiduciary account, and such notice shall refer to such application for further particulars.

(4) On or before the date and time of hearing any such application, any person beneficially interested in any fiduciary account as to which substitution of the subsidiary trust company is requested, may appear and file objection to substitution on the sole ground that such subsidiary trust company is unfit to act with respect to such account, and shall be entitled to be heard with respect to such objection.

(5) On such date of hearing, upon finding that due notice has been given as required by this act and upon finding that the subsidiary trust company has been duly authorized to commence the business for which it is organized by the department of business regulation, or the Comptroller of the Currency if the subsidiary trust company is a national banking association, the district court shall enter an order substituting the subsidiary trust company in every fiduciary capacity for each of its specified affiliated banks, excepting as may be otherwise specified in the application, and excepting fiduciary capacities in any account with respect to which an objection has been filed pursuant to this section and the district court has found facts requiring that such objection be allowed. Upon entry of such order, the subsidiary trust company shall, without further act, be substituted in every such fiduciary capacity. Such substitution may be made a matter of record in any county of this state by filing a certified copy of the order of substitution in the office of the clerk of any district court in this state or by filing a certified copy of such order in the office of the clerk and recorder of any county in this state to be by such officer recorded and indexed in like manner and with like effect as other orders and decrees of court are recorded and indexed.

(6) Each designation in a will or other instrument heretofore or hereafter executed of a bank as fiduciary shall be deemed a designation of the subsidiary trust company substituted for such bank pursuant to this section except where such will or other instrument is executed after such substitution and expressly negates the application of this section. Any grant in any such will or other instrument of any discretionary power shall be deemed conferred upon the subsidiary trust company deemed designated as the fiduciary pursuant to this section.

(7) A bank shall account jointly with the subsidiary trust company which has been substituted as fiduciary for such bank pursuant to this section for the accounting period during which the subsidiary trust company is initially so substituted. Upon substitution pursuant to this section, the bank shall deliver to the subsidiary trust company all assets held by the bank as fiduciary (except assets held for accounts with respect to which there has been no substitution pursuant to this section) and upon such substitution all such assets shall become the property of the subsidiary

trust company without the necessity of any instrument of transfer or conveyance."

6. Amend section 8

Strike: Section 8 in its entirety

Insert: "Section 8. Transfer of fiduciary relationships between affiliated banks. ~~(from affiliated banks to subsidiary trust companies.)~~ (1) Any bank which has received approval, pursuant to section 6 to maintain a trust office in the same building with the main office of any affiliated bank may file its verified application in the district court of the county in which its main office is located requesting that it be substituted, except as may be expressly excluded in such application, in every fiduciary capacity for such affiliated bank, and such affiliated bank shall join in such application. Such application shall indicate the county wherein the main office of such affiliated bank is located and shall designate each fiduciary account existing at the date thereof with respect to which the applicant bank requests substitution, *but not* (2) Such application shall additionally set forth, with regard to each existing fiduciary account designated therein, the name and address last known to the applicant of each person entitled to mailed notice of hearing thereon, who shall be those persons specified in subsections (a) to (e), inclusive, of section 7.

(2) When any such application shall have been filed, the clerk of the court where filed shall make an order fixing a date and time for hearing thereon and shall cause notice thereof to be given by publication and mailing in the manner required by section 7.

(3) The notice to be published and mailed with respect to each such application shall state the time and place of the hearing thereon, the name of the bank which has filed the application, the name of the affiliated bank which has joined in such application, that the application requests that the applicant bank be substituted in every fiduciary capacity for the affiliated bank specified in the application, and that any person beneficially interested in any affected fiduciary account may appear on or before the date of hearing and file his written objection to such substitution as to such affected fiduciary account on the sole ground that the applicant bank is unfit to act with respect to such affected fiduciary account, and such notice shall refer to such application for further particulars.

(4) On or before the date and time of hearing any such application, any person beneficially interested in any fiduciary account as to which substitution of the applicant bank is requested, may appear and file objection to substitution on the sole ground that such applicant bank is unfit to act with respect to such account, and shall be entitled to be heard with respect to such objection.

(5) On such date of hearing, upon finding that due notice has been given as required by this act and upon finding that the applicant bank has received the requisite approval from the department of business regulation, or the Comptroller of the Currency if the applicant bank is a national banking association, the district court shall enter an order substituting the applicant bank in every fiduciary capacity for the affiliated bank designated in the application, excepting as may be otherwise specified in the application, and excepting fiduciary capacities in any account with respect to which an objection has been filed pursuant to this section and the district court has found facts requiring that such objection be allowed. Upon entry of such order, the applicant bank shall, without further act, be substituted in every such fiduciary capacity. Such substitution may be made a matter of record in any county of this state by filing a certified copy of the order of substitution in the office of the clerk of any district court in this state or by filing a certified copy of such order in the office of the Clerk and Recorder of any county in this state to be by such officer recorded and indexed in like manner and with like effect as other orders and decrees of court are recorded and indexed.

(6) Each designation in a will or other instrument heretofore or hereafter executed of a bank as fiduciary shall be deemed a designation of the applicant bank substituted for such bank pursuant to this section except where such will or other instrument is executed after such substitution and expressly negates the application of this section. Any grant in any such will or other such instrument of any discretionary power shall be deemed conferred upon the applicant bank deemed designated as the fiduciary pursuant to this section.

(7) A bank shall account jointly with the applicant bank which has been substituted as fiduciary for such bank pursuant to this section for the accounting period during which the applicant bank is initially so substituted. Upon substitution pursuant to this section, the affiliated bank for which substitution has been made shall deliver to such applicant bank all assets held by such affiliated bank as fiduciary (except assets held for accounts with respect of which there has been no substitution pursuant to this section) and upon such substitution all such assets shall become the property of such applicant bank without the necessity of any instrument or transfer or conveyance.

7. Amend page 9, line 6

Insert: New section 10 as follows: "Section 10. Trust Subsidiaries of Unaffiliated Banks and Trust - Correspondent Relationships. Nothing in Sections 2 to 8 shall be construed to prohibit or restrict any bank having its main office in this state from establishing a subsidiary which is a trust company or to prohibit or restrict any group of banks having their main office in this state from acting jointly to establish one or more trust companies. Further, nothing in Sections 2 to 8 shall be construed as in any

way limiting or restricting the ability of any bank having its main office in this state to establish a trust-correspondent relationship ~~as~~ any other bank having trust powers."

Renumber: All subsequent sections.

AND AS AMENDED, DO PASS.

Chairman

STANDING COMMITTEE REPORT

February 24, 19 75

MR. ~~SPEAKER~~:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 424

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE SUBSIDIARY TRUST COMPANIES TO HAVE ONE OR MORE TRUST OFFICES; TO AUTHORIZE CERTAIN BANKS TO MAINTAIN ONE OR MORE TRUST OFFICES; TO PROVIDE FOR SUBSTITUTION IN FIDUCIARY CAPACITIES; TO AMEND SECTION 86-905, R.C.M. 1947; AND TO PROVIDE AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 424

Be amended in the introduced copy as follows:

1. Amend page 3, section 2, subsection (8), line 15.
Following: "guardian"
Strike: "or"
Insert: "of"
2. Amend page 4, section 4, line 9.
Following: "in"
Insert: "such"
3. Amend page 4, section 4, line 10.
Following: "and"
Insert: "such"
4. Amend page 4, section 4, line 11.
Following: "business"
Insert: "as is"

~~MR. SPEAKER~~

CONTINUED ON PAGE 2

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5. Amend pages 5, 6, and 7, section 7, lines 3 through 25 on page 5; lines 1 through 25 on page 6; and 1 and 2 on page 7.

Strike: Section 7 in its entirety.

Insert: "Section 7. Transfer of fiduciary relationships from affiliated banks to subsidiary trust companies. (1) Upon any subsidiary trust company being duly authorized to commence the business for which it is organized, such subsidiary trust company may file its verified application in the district court of the county in which its main office is located requesting that it be substituted, except as may be expressly excluded in such application, in every fiduciary capacity for each of its affiliated banks specified in the application, and each such specified affiliated bank shall join in such application. Such application shall indicate the county wherein the main office of each affiliated bank joining in the application is located and shall designate each fiduciary account existing at the date thereof with respect to which such subsidiary trust company requests substitution, but fiduciary capacities in other cases need not be listed. Such application shall additionally set forth, with regard to each existing fiduciary account designated therein, the name and address last known to the applicant of each person entitled to mailed notice of hearing thereon, to-wit:

(a) in the case of an existing fiduciary account which may be revoked, terminated or amended, each person who, alone or together with others, is empowered to revoke, terminate or amend the same;

(b) in the case of an existing fiduciary account with respect to which any person other than a court has the power to remove the corporate fiduciary, each person who, alone or together with others, is empowered to remove the corporate fiduciary;

(c) in the case of an existing fiduciary account which is an estate of a deceased person or which is a guardianship or conservatorship, to the clerk of the court in which such estate, guardianship or conservatorship matter is pending;

(d) in the case of an existing fiduciary account not described in any of the foregoing subparagraphs, to each income beneficiary of such account and to each beneficiary who, were such account terminated at the date of the application respecting such account, would be entitled to share in distributions of income or principal thereof; and

(e) in the case of any existing fiduciary account wherein an affiliated bank specified in the application is acting with a co-fiduciary, to each such co-fiduciary at his last known address.

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(2) When any such application shall have been filed, the clerk of the court where filed shall make an order fixing a date and time for hearing thereon and give notice thereof as hereinafter provided. The clerk of court shall cause a copy of such notice to be published at least once a week for three (3) successive weeks preceding the hearing date, the first such publication to be at least twenty-five (25) days preceding the hearing date, such publication to be in a newspaper of general circulation published in each county in which the main office of an affiliated bank specified in the application is located, or if in any case there be no such newspaper, then in a newspaper of general circulation published in a contiguous county. In addition, at least twenty-five (25) days preceding the hearing date, the clerk of the court shall cause a copy of such notice to be mailed by first class mail to each person identified in the application as being entitled to mailed notice under the provisions of this act, at his address last known to the applicant as set forth in the application.

(3) The notice to be published and mailed with respect to each such application shall state the time and place of the hearing thereon, the name of the subsidiary trust company which has filed the application, the name of each affiliated bank which has joined in such application, that the application requests that the subsidiary trust company be substituted in every fiduciary capacity for each of its affiliated banks specified in the application, and that any person beneficially interested in any affected fiduciary account may appear on or before the date of hearing and file his written objection to such substitution as to such affected fiduciary account, and such notice shall refer to such application for further particulars.

(4) On or before the date and time of hearing any such application, any person beneficially interested in any fiduciary account as to which substitution of the subsidiary trust company is requested, may appear and file objection to substitution on the sole ground that such subsidiary trust company is unfit to act with respect to such account, and shall be entitled to be heard with respect to such objection.

(5) On each date of hearing, upon finding that due notice has been given as required by this act and upon finding that the subsidiary trust company has been duly authorized to commence the business for which it is organized by the department of business regulation, or the comptroller of the currency if the subsidiary trust company is a national banking association, the district court shall enter an order substituting the subsidiary trust company in every fiduciary capacity for each of its specified affiliated banks, excepting as may be otherwise specified in the application, and excepting fiduciary capacities in any account with respect to which an objection has been filed pursuant to this section and the district court has found facts requiring that such objection be allowed. Upon entry of such order, the subsidiary trust company shall,

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without further act, be substituted in every such fiduciary capacity. Such substitution may be made a matter of record in any county of this state by filing a certified copy of the order of substitution in the office of the clerk of any district court in this state or by filing a certified copy of such order in the office of the clerk and recorder of any county in this state to be by such officer recorded and indexed in like manner and with like effect as other orders and decrees of court are recorded and indexed.

(6) Each designation in a will or other instrument heretofore or hereafter executed of a bank as fiduciary shall be deemed a designation of the subsidiary trust company substituted for such bank pursuant to this section except where such will or other instrument is executed after such substitution and expressly negates the application of this section. Any grant in any such will or other instrument of any discretionary power shall be deemed conferred upon the subsidiary trust company deemed designated as the fiduciary pursuant to this section.

(7) A bank shall account jointly with the subsidiary trust company which has been substituted as fiduciary for such bank pursuant to this section for the accounting period during which the subsidiary trust company is initially so substituted. Upon substitution pursuant to this section, the bank shall deliver to the subsidiary trust company all assets held by the bank as fiduciary (except assets held for accounts with respect to which there has been no substitution pursuant to this section) and upon such substitution all such assets shall become the property of the subsidiary trust company without the necessity of any instrument of transfer or conveyance."

6. Amend pages 7 and 8, section 8, lines 3 through 25 on page 7 and lines 1 through 23 on page 8.

Strike: This section 8 in its entirety.

Insert: A new section 8.

"Section 8. Transfer of fiduciary relationships between affiliated banks. (1) Any bank which has received approval, pursuant to section 6 to maintain a trust office in the same building with the main office of any affiliated bank may file its verified application in the district court of the county in which its main office is located requesting that it be substituted, except as may be expressly excluded in such application, in every fiduciary capacity for such affiliated bank, and such affiliated bank shall join in such application. Such application shall indicate the county wherein the main office of such affiliated bank is located and shall designate each fiduciary account existing at the date thereof with respect to which the applicant bank requests substitution, but fiduciary capacities in other cases need not be listed. Such application shall additionally set forth, with regard to each existing fiduciary account designated

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therein, the name and address last known to the applicant of each person entitled to mailed notice of hearing thereon, who shall be those persons specified in subsections (a) to (e), inclusive, of section 7.

(2) When any such application shall have been filed, the clerk of the court where filed shall make an order fixing a date and time for hearing thereon and shall cause notice thereof to be given by publication and mailing in the manner required by section 7.

(3) The notice to be published and mailed with respect to each such application shall state the time and place of the hearing thereon, the name of the bank which has filed the application, the name of the affiliated bank which has joined in such application, that the application requests that the applicant bank be substituted in every fiduciary capacity for the affiliated bank specified in the application, and that any person beneficially interested in any affected fiduciary account may appear on or before the date of hearing and file his written objection to such substitution as to such affected fiduciary account on the sole ground that the applicant bank is unfit to act with respect to such affected fiduciary account, and such notice shall refer to such application for further particulars.

(4) On or before the date and time of hearing any such application, any person beneficially interested in any fiduciary account as to which substitution of the applicant bank is requested, may appear and file objection to substitution on the sole ground that such applicant bank is unfit to act with respect to such account, and shall be entitled to be heard with respect to such objection.

(5) On such date of hearing, upon finding that due notice has been given as required by this act and upon finding that the applicant bank has received the requisite approval from the department of business regulation, or the comptroller of the currency if the applicant bank is a national banking association, the district court shall enter an order substituting the applicant bank in every fiduciary capacity for the affiliated bank designated in the application, excepting as may be otherwise specified in the application, and excepting fiduciary capacities in any account with respect to which an objection has been filed pursuant to this section and the district court has found facts requiring that such objection be allowed. Upon entry of such order, the applicant bank shall, without further act, be substituted in every such fiduciary capacity. Such substitution may be made a matter of record in any county of this state by filing a certified copy of the order of substitution in the office of the clerk of any district court in this state or by filing a certified copy of such order in the office of the clerk and recorder of any county

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in this state to be by such officer recorded and indexed in like manner and with like effect as other orders and decrees of court are recorded and indexed.

(6) Each designation in a will or other instrument heretofore or hereafter executed of a bank as fiduciary shall be deemed a designation of the applicant bank substituted for such bank pursuant to this section except where such will or other instrument is executed after such substitution and expressly negates the application of this section. Any grant in any such will or other such instrument of any discretionary power shall be deemed conferred upon the applicant bank deemed designated as the fiduciary pursuant to this section.

(7) A bank shall account jointly with the applicant bank which has been substituted as fiduciary for such bank pursuant to this section for the accounting period during which the applicant bank is initially so substituted. Upon substitution pursuant to this section, the affiliated bank for which substitution has been made shall deliver to such applicant bank all assets held by such affiliated bank as fiduciary (except assets held for accounts with respect of which there has been no substitution pursuant to this section) and upon such substitution all such assets shall become the property of such applicant bank without the necessity of any instrument or transfer or conveyance."

7. Amend page 9, following line 5.
Insert: A new section 10 as follows:

"Section 10. Trust subsidiaries of unaffiliated banks and trust-correspondent relationships. Nothing in sections 2 to 3 shall be construed to prohibit or restrict any bank having its main office in this state from establishing a subsidiary which is a trust company or to prohibit or restrict any group of banks having their main office in this state from acting jointly to establish one or more trust companies. Further, nothing in sections 2 to 3 shall be construed as in any way limiting or restricting the ability of any bank having its main office in this state to establish a trust-correspondent relationship with any other bank having trust powers."

Renumber the subsequent section.

AS SO AMENDED
DO PASS

HERB HUENNEKENS, CHAIRMAN

HOUSE BILL NO. 424
INTRODUCED BY JAMES MOORE, FAEREGA

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE SUBSIDIARY TRUST COMPANIES TO HAVE ONE OR MORE TRUST OFFICES; TO AUTHORIZE CERTAIN BANKS TO MAINTAIN ONE OR MORE TRUST OFFICES; TO PROVIDE FOR SUBSTITUTION IN FIDUCIARY CAPACITIES; TO AMEND SECTION 86-905, R.C.M. 1947; AND TO PROVIDE AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. This act may be cited as "The Subsidiary Trust Company Act of 1975".

Section 2. Definitions. As used in this act: (1) "subsidiary trust company" means any corporation which is incorporated under the banking laws of this state and any national banking association having its main office in this state more than fifty percent (50%) of the voting stock of which is owned by an owning bank holding company and which has as its purposes any one or more of the purposes described in section 5-106, except that a subsidiary trust company may not be empowered to accept deposits ~~except those deposits incidental to its trust business~~ OR OTHERWISE TO CONDUCT COMMERCIAL BANKING BUSINESS.

(2) "affiliated bank" with respect to a subsidiary

trust company, means any bank incorporated under the laws of this state and any national banking association having its main office in this state more than fifty percent (50%) of the voting stock of which is owned by the same owning bank holding company that owns more than fifty percent (50%) of the voting stock of the subsidiary trust company.

(3) "affiliated bank" with respect to another bank which is not a subsidiary trust company, means any bank incorporated under the laws of this state and any national banking association having its main office located in this state more than fifty percent (50%) of the stock of which is owned by the same owning bank holding company that owns more than fifty percent (50%) of the voting stock of such other bank.

(4) "owning bank holding company", with respect to a subsidiary trust company or an affiliated bank, means a bank holding company as defined in the United States Bank Holding Company Act of 1956, as amended.

(5) "main office", with respect to a subsidiary trust company or an affiliated bank, is the place designated in the articles of incorporation or articles of association of that subsidiary trust company or affiliated bank at which its principal functions are to be conducted.

(6) "trust office", with respect to a subsidiary trust company, means an office, including the main office, of the

1 subsidiary trust company maintained for the purpose of
2 conducting its business.

3 (7) "trust office", with respect to a bank which is
4 not a subsidiary trust company, means an office other than
5 the main office of that bank maintained solely for the
6 purpose of conducting trust business as described in section
7 4.

8 (8) "fiduciary capacity" means a capacity resulting
9 from a bank undertaking to act alone or jointly with others
10 primarily for the benefit of another in all matters
11 connected with its undertaking and includes the capacities
12 of trustee (including trustee of a common trust fund),
13 executor, administrator, personal representative, registrar
14 or transfer agent with respect to stocks, bonds or other
15 evidences of indebtedness of any corporation, association,
16 municipality, state or public authority, guardian ~~of~~ OF
17 estates, receiver, conservator, escrow agent, agent for the
18 investment of money, attorney-in-fact and any other similar
19 capacity.

20 Section 3. Organization of subsidiary trust companies.
21 A subsidiary trust company shall be incorporated under the
22 laws of this state in accordance with, and subject to, the
23 provisions of chapter 2 of Title 5, R.C.M. 1947, or under
24 the laws of the United States. To the extent not
25 inconsistent with the provisions of this chapter, any

1 subsidiary trust company incorporated under the laws of this
2 state shall be subject to the laws of this state generally
3 applicable to trust companies. A subsidiary trust company
4 formed under the laws of the United States, shall be
5 subject, to the extent provided by the laws of the United
6 States, to the laws of this state applicable to subsidiary
7 trust companies incorporated under the laws of this state.

8 Section 4. Permissible business of subsidiary trust
9 companies. The permissible business of a subsidiary trust
10 company shall be to engage in SUCH trust business as may be
11 engaged in by a trust company under section 5-106 and SUCH
12 business AS IS incidental thereto. A subsidiary trust
13 company shall ~~accept only those deposits incidental to the~~
14 ~~trust business conducted by it~~ NOT ACCEPT DEPOSITS OF
15 OTHERWISE CONDUCT COMMERCIAL BANKING BUSINESS.

16 Section 5. Trust offices of subsidiary trust
17 companies. Notwithstanding the provisions of section 5-1028,
18 a subsidiary trust company may have a trust office at any
19 one or more locations in this state in the same building
20 with the main office of any affiliated bank WHICH, ON
21 JANUARY 1, 1975, WAS AUTHORIZED TO ACT IN FIDUCIARY
22 CAPACITIES, but not elsewhere.

23 Section 6. Trust offices of affiliated banks.
24 Notwithstanding the provisions of section 5-1028, a bank
25 having trust powers may be authorized by the department of

business regulation or by the comptroller of the currency,
in the case of a national banking association, to maintain a
trust office at any one or more locations in this state in
the same building with the main office of any affiliated
bank WHICH, ON JANUARY 1, 1975, WAS AUTHORIZED TO ACT IN
FIDUCIARY CAPACITIES.

~~Section 7. Transfer of fiduciary relationships from
affiliated banks to subsidiary trust companies. (1) Upon
authorization of any subsidiary trust company to commence
the business for which it is organized, that subsidiary
trust company may file an application in the district court
of the county in which its main office is located requesting
that it be substituted, except as may be expressly excluded
in the application, in every fiduciary capacity for each of
its affiliated banks specified in the application, and each
such specified affiliated bank shall join in the
application. Upon finding that the subsidiary trust company
is authorized to commence the business for which it is
organized by the department of business regulation, or the
comptroller of the currency if the subsidiary trust company
is a national banking association, the district court shall
enter an order substituting the subsidiary trust company in
every fiduciary capacity for each of its specified
affiliated banks, except as may be otherwise specified in
the application. The application may be made ex parte and~~

~~need not list the fiduciary capacities in which substitution
is made. Upon entry of this order, the subsidiary trust
company shall be substituted, in every such fiduciary
capacity, and the substitution may be evidenced by filing a
copy of the order with the clerk of any district court in
this state or by delivery for recording a copy of the order
to the clerk and recorder of any county in this state. That
officer shall index the order as other recorded orders and
decrees are indexed.~~

~~(2) Each prior or succeeding designation in a will or
other instrument executed by a bank as fiduciary shall be
considered a designation of the subsidiary trust company
substituted for that bank under this section, except where a
will or other instrument is executed after the above
substitution and it expressly negates the application of
this section. Any grant in any such will or other
instrument of any discretionary power shall be considered
conferred upon the subsidiary trust company considered
designated as the fiduciary under this section.~~

~~(3) A bank shall account jointly with the subsidiary
trust company which has been substituted as fiduciary for
that bank under this section for the accounting period
during which the subsidiary trust company is initially
substituted. Upon substitution under this section, the bank
shall deliver to the subsidiary trust company all assets~~

~~held by the bank as fiduciary (except assets held for accounts with respect to which there has been no substitution under this section) and upon this substitution all those assets shall become the property of the subsidiary trust company without the necessity of any instrument of transfer or conveyance.~~

SECTION 7. TRANSFER OF FIDUCIARY RELATIONSHIPS FROM AFFILIATED BANKS TO SUBSIDIARY TRUST COMPANIES. (1) UPON ANY SUBSIDIARY TRUST COMPANY BEING DULY AUTHORIZED TO COMMENCE THE BUSINESS FOR WHICH IT IS ORGANIZED, SUCH SUBSIDIARY TRUST COMPANY MAY FILE ITS VERIFIED APPLICATION IN THE DISTRICT COURT OF THE COUNTY IN WHICH ITS MAIN OFFICE IS LOCATED REQUESTING THAT IT BE SUBSTITUTED, EXCEPT AS MAY BE EXPRESSLY EXCLUDED IN SUCH APPLICATION, IN EVERY FIDUCIARY CAPACITY FOR EACH OF ITS AFFILIATED BANKS SPECIFIED IN THE APPLICATION, AND EACH SUCH SPECIFIED AFFILIATED BANK SHALL JOIN IN SUCH APPLICATION. SUCH APPLICATION SHALL INDICATE THE COUNTY WHEREIN THE MAIN OFFICE OF EACH AFFILIATED BANK JOINING IN THE APPLICATION IS LOCATED AND SHALL DESIGNATE EACH FIDUCIARY ACCOUNT EXISTING AT THE DATE THEREOF WITH RESPECT TO WHICH SUCH SUBSIDIARY TRUST COMPANY REQUESTS SUBSTITUTION, BUT FIDUCIARY CAPACITIES IN OTHER CASES NEED NOT BE LISTED. SUCH APPLICATION SHALL ADDITIONALLY SET FORTH, WITH REGARD TO EACH EXISTING FIDUCIARY ACCOUNT DESIGNATED THEREIN, THE NAME

AND ADDRESS LAST KNOWN TO THE APPLICANT OF EACH PERSON ENTITLED TO MAILED NOTICE OF HEARING THEREON, TO WIT:

(A) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT WHICH MAY BE REVOKED, TERMINATED OR AMENDED, EACH PERSON WHO, ALONE OR TOGETHER WITH OTHERS, IS EMPOWERED TO REVOKE, TERMINATE OR AMEND THE SAME;

(B) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT WITH RESPECT TO WHICH ANY PERSON OTHER THAN A COURT HAS THE POWER TO REMOVE THE CORPORATE FIDUCIARY, EACH PERSON WHO, ALONE OR TOGETHER WITH OTHERS, IS EMPOWERED TO REMOVE THE CORPORATE FIDUCIARY;

(C) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT WHICH IS AN ESTATE OF A DECEASED PERSON OR WHICH IS A GUARDIANSHIP OR CONSERVATORSHIP, TO THE CLERK OF THE COURT IN WHICH SUCH ESTATE, GUARDIANSHIP OR CONSERVATORSHIP MATTER IS PENDING;

(D) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT NOT DESCRIBED IN ANY OF THE FOREGOING SUBPARAGRAPHS, TO EACH INCOME BENEFICIARY OF SUCH ACCOUNT AND TO EACH BENEFICIARY WHO, WERE SUCH ACCOUNT TERMINATED AT THE DATE OF THE APPLICATION RESPECTING SUCH ACCOUNT, WOULD BE ENTITLED TO SHARE IN DISTRIBUTIONS OF INCOME OR PRINCIPAL THEREOF; AND

(E) IN THE CASE OF ANY EXISTING FIDUCIARY ACCOUNT WHEREIN AN AFFILIATED BANK SPECIFIED IN THE APPLICATION IS ACTING WITH A CO-FIDUCIARY, TO EACH SUCH CO-FIDUCIARY AT HIS LAST KNOWN ADDRESS.

1 (2) WHEN ANY SUCH APPLICATION SHALL HAVE BEEN FILED,
 2 THE CLERK OF THE COURT WHERE FILED SHALL MAKE AN ORDER
 3 FIXING A DATE AND TIME FOR HEARING THEREON AND GIVE NOTICE
 4 THEREOF AS HEREINAFTER PROVIDED. THE CLERK OF COURT SHALL
 5 CAUSE A COPY OF SUCH NOTICE TO BE PUBLISHED AT LEAST ONCE A
 6 WEEK FOR THREE (3) SUCCESSIVE WEEKS PRECEDING THE HEARING
 7 DATE, THE FIRST SUCH PUBLICATION TO BE AT LEAST TWENTY-FIVE
 8 (25) DAYS PRECEDING THE HEARING DATE, SUCH PUBLICATION TO BE
 9 IN A NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN EACH
 10 COUNTY IN WHICH THE MAIN OFFICE OF AN AFFILIATED BANK
 11 SPECIFIED IN THE APPLICATION IS LOCATED, OR IF IN ANY CASE
 12 THERE BE NO SUCH NEWSPAPER, THEN IN A NEWSPAPER OF GENERAL
 13 CIRCULATION PUBLISHED IN A CONTIGUOUS COUNTY. IN ADDITION,
 14 AT LEAST TWENTY-FIVE (25) DAYS PRECEDING THE HEARING DATE,
 15 THE CLERK OF THE COURT SHALL CAUSE A COPY OF SUCH NOTICE TO
 16 BE MAILED BY FIRST CLASS MAIL TO EACH PERSON IDENTIFIED IN
 17 THE APPLICATION AS BEING ENTITLED TO MAILED NOTICE UNDER THE
 18 PROVISIONS OF THIS ACT, AT HIS ADDRESS LAST KNOWN TO THE
 19 APPLICANT AS SET FORTH IN THE APPLICATION.

20 (3) THE NOTICE TO BE PUBLISHED AND MAILED WITH RESPECT
 21 TO EACH SUCH APPLICATION SHALL STATE THE TIME AND PLACE OF
 22 THE HEARING THEREON, THE NAME OF THE SUBSIDIARY TRUST
 23 COMPANY WHICH HAS FILED THE APPLICATION, THE NAME OF EACH
 24 AFFILIATED BANK WHICH HAS JOINED IN SUCH APPLICATION, THAT
 25 THE APPLICATION REQUESTS THAT THE SUBSIDIARY TRUST COMPANY

1 BE SUBSTITUTED IN EVERY FIDUCIARY CAPACITY FOR EACH OF ITS
 2 AFFILIATED BANKS SPECIFIED IN THE APPLICATION, AND THAT ANY
 3 PERSON BENEFICIALLY INTERESTED IN ANY AFFECTED FIDUCIARY
 4 ACCOUNT MAY APPEAR ON OR BEFORE THE DATE OF HEARING AND FILE
 5 HIS WRITTEN OBJECTION TO SUCH SUBSTITUTION AS TO SUCH
 6 AFFECTED FIDUCIARY ACCOUNT, AND SUCH NOTICE SHALL REFER TO
 7 SUCH APPLICATION FOR FURTHER PARTICULARS.

8 (4) ON OR BEFORE THE DATE AND TIME OF HEARING ANY SUCH
 9 APPLICATION, ANY PERSON BENEFICIALLY INTERESTED IN ANY
 10 FIDUCIARY ACCOUNT AS TO WHICH SUBSTITUTION OF THE SUBSIDIARY
 11 TRUST COMPANY IS REQUESTED, MAY APPEAR AND FILE OBJECTION TO
 12 SUBSTITUTION ON THE GROUND THAT SUCH SUBSIDIARY TRUST
 13 COMPANY IS UNFIT TO ACT WITH RESPECT TO SUCH ACCOUNT, AND
 14 SHALL BE ENTITLED TO BE HEARD WITH RESPECT TO SUCH
 15 OBJECTION.

16 (5) ON SUCH DATE OF HEARING, UPON FINDING THAT DUE
 17 NOTICE HAS BEEN GIVEN AS REQUIRED BY THIS ACT AND UPON
 18 FINDING THAT THE SUBSIDIARY TRUST COMPANY HAS BEEN DULY
 19 AUTHORIZED TO COMMENCE THE BUSINESS FOR WHICH IT IS
 20 ORGANIZED BY THE DEPARTMENT OF BUSINESS REGULATION, OR THE
 21 COMPTROLLER OF THE CURRENCY IF THE SUBSIDIARY TRUST COMPANY
 22 IS A NATIONAL BANKING ASSOCIATION, THE DISTRICT COURT SHALL
 23 ENTER AN ORDER SUBSTITUTING THE SUBSIDIARY TRUST COMPANY IN
 24 EVERY FIDUCIARY CAPACITY FOR EACH OF ITS SPECIFIED
 25 AFFILIATED BANKS, EXCEPTING AS MAY BE OTHERWISE SPECIFIED IN

1 THE APPLICATION, AND EXCEPTING FIDUCIARY CAPACITIES IN ANY
 2 ACCOUNT WITH RESPECT TO WHICH AN OBJECTION HAS BEEN FILED
 3 PURSUANT TO THIS SECTION AND THE DISTRICT COURT HAS FOUND
 4 FACTS REQUIRING THAT SUCH OBJECTION BE ALLOWED. UPON ENTRY
 5 OF SUCH ORDER, THE SUBSIDIARY TRUST COMPANY SHALL, WITHOUT
 6 FURTHER ACT, BE SUBSTITUTED IN EVERY SUCH FIDUCIARY
 7 CAPACITY. SUCH SUBSTITUTION MAY BE MADE A MATTER OF RECORD
 8 IN ANY COUNTY OF THIS STATE BY FILING A CERTIFIED COPY OF
 9 THE ORDER OF SUBSTITUTION IN THE OFFICE OF THE CLERK OF ANY
 10 DISTRICT COURT IN THIS STATE OR BY FILING A CERTIFIED COPY
 11 OF SUCH ORDER IN THE OFFICE OF THE CLERK AND RECORDER OF ANY
 12 COUNTY IN THIS STATE TO BE BY SUCH OFFICER RECORDED AND
 13 INDEXED IN LIKE MANNER AND WITH LIKE EFFECT AS OTHER ORDERS
 14 AND DECREES OF COURT ARE RECORDED AND INDEXED.

15 (6) EACH DESIGNATION IN A WILL OR OTHER INSTRUMENT
 16 HERETOFORE OR HEREFTER EXECUTED OF A BANK AS FIDUCIARY
 17 SHALL BE DEEMED A DESIGNATION OF THE SUBSIDIARY TRUST
 18 COMPANY SUBSTITUTED FOR SUCH BANK PURSUANT TO THIS SECTION
 19 EXCEPT WHERE SUCH WILL OR OTHER INSTRUMENT IS EXECUTED AFTER
 20 SUCH SUBSTITUTION AND EXPRESSLY NEGATES THE APPLICATION OF
 21 THIS SECTION. ANY GRANT IN ANY SUCH WILL OR OTHER
 22 INSTRUMENT OF ANY DISCRETIONARY POWER SHALL BE DEEMED
 23 CONFERRED UPON THE SUBSIDIARY TRUST COMPANY DEEMED
 24 DESIGNATED AS THE FIDUCIARY PURSUANT TO THIS SECTION.

25 (7) A BANK SHALL ACCOUNT JOINTLY WITH THE SUBSIDIARY

1 TRUST COMPANY WHICH HAS BEEN SUBSTITUTED AS FIDUCIARY FOR
 2 SUCH BANK PURSUANT TO THIS SECTION FOR THE ACCOUNTING PERIOD
 3 DURING WHICH THE SUBSIDIARY TRUST COMPANY IS INITIALLY SO
 4 SUBSTITUTED. UPON SUBSTITUTION PURSUANT TO THIS SECTION,
 5 THE BANK SHALL DELIVER TO THE SUBSIDIARY TRUST COMPANY ALL
 6 ASSETS HELD BY THE BANK AS FIDUCIARY (EXCEPT ASSETS HELD FOR
 7 ACCOUNTS WITH RESPECT TO WHICH THERE HAS BEEN NO
 8 SUBSTITUTION PURSUANT TO THIS SECTION) AND UPON SUCH
 9 SUBSTITUTION ALL SUCH ASSETS SHALL BECOME THE PROPERTY OF
 10 THE SUBSIDIARY TRUST COMPANY WITHOUT THE NECESSITY OF ANY
 11 INSTRUMENT OF TRANSFER OR CONVEYANCE.

12 Section 8. Transfer of fiduciary relationships between
 13 affiliated banks. (1) Any bank which has received
 14 approval, under section 6, to maintain a trust office in the
 15 same building with the main office of any affiliated bank,
 16 may file an application in the district court in which its
 17 main office is located, requesting that it be substituted,
 18 except as may be expressly excluded in the application, in
 19 every fiduciary capacity for the affiliated bank, and that
 20 affiliated bank shall join in the application. Upon finding
 21 that the bank filing an application has received the
 22 requisite approval from the department of business
 23 regulation or the comptroller of the currency, the district
 24 court shall enter an order substituting the bank in every
 25 fiduciary capacity for this affiliated bank, except as may

~~be otherwise specified in the application. Such application may be made ex parte and need not list the fiduciary capacities in which substitution is made. Upon entry of this order, the bank shall be substituted, without further act, in every such fiduciary capacity, and the substitution may be evidenced by filing a copy of the order with the clerk of any district court in this state or by delivery for recording a copy of the order to the clerk and recorder of any county in this state. That officer shall index the order as other recorded orders and decrees are indexed.~~

~~(2) Each prior or succeeding designation in a will or other instrument executed by a bank as fiduciary shall be considered a designation of the affiliated bank substituted for that bank under this section, except where a will or other instrument is executed after the above substitution and expressly negates the application of this section. Any grant in any such will or other such instrument of any discretionary power shall be considered conferred upon the affiliated bank considered designated as the fiduciary under this section.~~

~~(3) A bank shall account jointly with the affiliated bank which has been substituted as fiduciary for that bank under this section for the accounting period during which the affiliated bank is initially substituted. Upon substitution under this section, the bank for which~~

~~substitution has been made shall deliver to the affiliated bank all assets held by the bank as fiduciary (except assets held for accounts with respect of which there has been no substitution under this section) and upon this substitution all those assets shall become the property of the affiliated bank without the necessity of any instrument or transfer of conveyance.~~

SECTION 6. TRANSFER OF FIDUCIARY RELATIONSHIPS BETWEEN AFFILIATED BANKS. (1) ANY BANK WHICH HAS RECEIVED APPROVAL, PURSUANT TO SECTION 6 TO MAINTAIN A TRUST OFFICE IN THE SAME BUILDING WITH THE MAIN OFFICE OF ANY AFFILIATED BANK MAY FILE ITS VERIFIED APPLICATION IN THE DISTRICT COURT OF THE COUNTY IN WHICH ITS MAIN OFFICE IS LOCATED REQUESTING THAT IT BE SUBSTITUTED, EXCEPT AS MAY BE EXPRESSLY EXCLUDED IN SUCH APPLICATION, IN EVERY FIDUCIARY CAPACITY FOR SUCH AFFILIATED BANK, AND SUCH AFFILIATED BANK SHALL JOIN IN SUCH APPLICATION. SUCH APPLICATION SHALL INDICATE THE COUNTY WHEREIN THE MAIN OFFICE OF SUCH AFFILIATED BANK IS LOCATED AND SHALL DESIGNATE EACH FIDUCIARY ACCOUNT EXISTING AT THE DATE THEREOF WITH RESPECT TO WHICH THE APPLICANT BANK REQUESTS SUBSTITUTION, BUT FIDUCIARY CAPACITIES IN OTHER CASES NEED NOT BE LISTED. SUCH APPLICATION SHALL ADDITIONALLY SET FORTH, WITH REGARD TO EACH EXISTING FIDUCIARY ACCOUNT DESIGNATED THEREIN, THE NAME AND ADDRESS LAST KNOWN TO THE APPLICANT OF EACH PERSON ENTITLED TO

1 MAILED NOTICE OF HEARING THEREON, WHO SHALL BE THOSE PERSONS
 2 SPECIFIED IN SUBSECTIONS (A) TO (E), INCLUSIVE, OF SECTION
 3 7.

4 (2) WHEN ANY SUCH APPLICATION SHALL HAVE BEEN FILED,
 5 THE CLERK OF THE COURT WHERE FILED SHALL MAKE AN ORDER
 6 FIXING A DATE AND TIME FOR HEARING THEREON AND SHALL CAUSE
 7 NOTICE THEREOF TO BE GIVEN BY PUBLICATION AND MAILING IN THE
 8 MANNER REQUIRED BY SECTION 7.

9 (3) THE NOTICE TO BE PUBLISHED AND MAILED WITH RESPECT
 10 TO EACH SUCH APPLICATION SHALL STATE THE TIME AND PLACE OF
 11 THE HEARING THEREON, THE NAME OF THE BANK WHICH HAS FILED
 12 THE APPLICATION, THE NAME OF THE AFFILIATED BANK WHICH HAS
 13 JOINED IN SUCH APPLICATION, THAT THE APPLICATION REQUESTS
 14 THAT THE APPLICANT BANK BE SUBSTITUTED IN EVERY FIDUCIARY
 15 CAPACITY FOR THE AFFILIATED BANK SPECIFIED IN THE
 16 APPLICATION, AND THAT ANY PERSON BENEFICIALLY INTERESTED IN
 17 ANY AFFECTED FIDUCIARY ACCOUNT MAY APPEAR ON OR BEFORE THE
 18 DATE OF HEARING AND FILE HIS WRITTEN OBJECTION TO SUCH
 19 SUBSTITUTIONS SUBSTITUTION AS TO SUCH AFFECTED FIDUCIARY
 20 ACCOUNT ON THE SOLE GROUND THAT THE APPLICANT BANK IS UNFIT
 21 TO ACT WITH RESPECT TO SUCH AFFECTED FIDUCIARY ACCOUNT, AND
 22 SUCH NOTICE SHALL REFER TO SUCH APPLICATION FOR FURTHER
 23 PARTICULARS.

24 (4) ON OR BEFORE THE DATE AND TIME OF HEARING ANY SUCH
 25 APPLICATION, ANY PERSON BENEFICIALLY INTERESTED IN ANY

1 FIDUCIARY ACCOUNT AS TO WHICH SUBSTITUTION OF THE APPLICANT
 2 BANK IS REQUESTED, MAY APPEAR AND FILE OBJECTION TO
 3 SUBSTITUTION-ON-THE-SOLE-GROUND-THAT-SUCH-APPLICANT-BANK--IS
 4 UNFIT--TO--ACT--WITH--RESPECT--TO-SUCH-ACCOUNT, AND SHALL BE
 5 ENTITLED TO BE HEARD WITH RESPECT TO SUCH OBJECTION.

6 (5) ON SUCH DATE OF HEARING, UPON FINDING THAT DUE
 7 NOTICE HAS BEEN GIVEN AS REQUIRED BY THIS ACT AND UPON
 8 FINDING THAT THE APPLICANT BANK HAS RECEIVED THE REQUISITE
 9 APPROVAL FROM THE DEPARTMENT OF BUSINESS REGULATION, OR THE
 10 COMPTROLLER OF THE CURRENCY IF THE APPLICANT BANK IS A
 11 NATIONAL BANKING ASSOCIATION, THE DISTRICT COURT SHALL ENTER
 12 AN ORDER SUBSTITUTING THE APPLICANT BANK IN EVERY FIDUCIARY
 13 CAPACITY FOR THE AFFILIATED BANK DESIGNATED IN THE
 14 APPLICATION, EXCEPTING AS MAY BE OTHERWISE SPECIFIED IN THE
 15 APPLICATION, AND EXCEPTING FIDUCIARY CAPACITIES IN ANY
 16 ACCOUNT WITH RESPECT TO WHICH AN OBJECTION HAS BEEN FILED
 17 PURSUANT TO THIS SECTION AND-THE-DISTRICT-COURT-HAS-FOUND
 18 FACTS--REQUIRING-THAT-SUCH-OBJECTION-BE-ALLOWED. UPON ENTRY
 19 OF SUCH ORDER, THE APPLICANT BANK SHALL, WITHOUT FURTHER
 20 ACT, BE SUBSTITUTED IN EVERY SUCH FIDUCIARY CAPACITY. SUCH
 21 SUBSTITUTION MAY BE MADE A MATTER OF RECORD IN ANY COUNTY OF
 22 THIS STATE BY FILING A CERTIFIED COPY OF THE ORDER OF
 23 SUBSTITUTION IN THE OFFICE OF THE CLERK OF ANY DISTRICT
 24 COURT IN THIS STATE OR BY FILING A CERTIFIED COPY OF SUCH
 25 ORDER IN THE OFFICE OF THE CLERK AND RECORDER OF ANY COUNTY

1 IN THIS STATE TO BE BY SUCH OFFICER RECORDED AND INDEXED IN
 2 LIKE MANNER AND WITH LIKE EFFECT AS OTHER ORDERS AND DECREES
 3 OF COURT ARE RECORDED AND INDEXED.

4 (6) EACH DESIGNATION IN A WILL OR OTHER INSTRUMENT
 5 HERETOFORE OR HEREAFTER EXECUTED OF A BANK AS FIDUCIARY
 6 SHALL BE DEEMED A DESIGNATION OF THE APPLICANT BANK
 7 SUBSTITUTED FOR SUCH BANK PURSUANT TO THIS SECTION EXCEPT
 8 WHERE SUCH WILL OR OTHER INSTRUMENT IS EXECUTED AFTER SUCH
 9 SUBSTITUTION AND EXPRESSLY NEGATES THE APPLICATION OF THIS
 10 SECTION. ANY GRANT IN ANY SUCH WILL OR OTHER SUCH
 11 INSTRUMENT OF ANY DISCRETIONARY POWER SHALL BE DEEMED
 12 CONFERRED UPON THE APPLICANT BANK DEEMED DESIGNATED AS THE
 13 FIDUCIARY PURSUANT TO THIS SECTION.

14 (7) A BANK SHALL ACCOUNT JOINTLY WITH THE APPLICANT
 15 BANK WHICH HAS BEEN SUBSTITUTED AS FIDUCIARY FOR SUCH BANK
 16 PURSUANT TO THIS SECTION FOR THE ACCOUNTING PERIOD DURING
 17 WHICH THE APPLICANT BANK IS INITIALLY SO SUBSTITUTED. UPON
 18 SUBSTITUTION PURSUANT TO THIS SECTION, THE AFFILIATED BANK
 19 FOR WHICH SUBSTITUTION HAS BEEN MADE SHALL DELIVER TO SUCH
 20 APPLICANT BANK ALL ASSETS HELD BY SUCH AFFILIATED BANK AS
 21 FIDUCIARY (EXCEPT ASSETS HELD FOR ACCOUNTS WITH RESPECT OF
 22 WHICH THERE HAS BEEN NO SUBSTITUTION PURSUANT TO THIS
 23 SECTION) AND UPON SUCH SUBSTITUTION ALL SUCH ASSETS SHALL
 24 BECOME THE PROPERTY OF SUCH APPLICANT BANK WITHOUT THE
 25 NECESSITY OF ANY INSTRUMENT OR TRANSFER OR CONVEYANCE.

1 Section 9. Section 86-905, R.C.M. 1947, is amended to
 2 read as follows:

3 "86-905. Transfer of office prohibited. The Except as
 4 provided in sections [7 and 8 of this act], the trustee
 5 shall not transfer his office to another or delegate the
 6 entire administration of the trust to a co-trustee or
 7 another."

8 SECTION 10. -- TRUST -- SUBSIDIARIES -- OF UNAFFILIATED BANKS
 9 AND TRUST CORRESPONDENT RELATIONSHIPS. -- NOTHING IN SECTIONS
 10 2 -- TO -- 3 SHALL BE CONSTRUED TO PROHIBIT OR RESTRICT ANY BANK
 11 HAVING ITS MAIN OFFICE IN THIS STATE FROM ESTABLISHING A
 12 SUBSIDIARY WHICH IS A TRUST COMPANY OR TO PROHIBIT OR
 13 RESTRICT ANY GROUP OF BANKS HAVING THEIR MAIN OFFICE OFFICES
 14 IN THIS STATE FROM ACTING JOINTLY TO ESTABLISH ONE OR MORE
 15 TRUST COMPANIES, PROVIDED, THAT NO SUCH TRUST COMPANY MAY
 16 ACCEPT DEPOSITS OR OTHERWISE CONDUCT COMMERCIAL BANKING
 17 BUSINESS. -- FURTHER, -- NOTHING IN SECTIONS 2 -- TO -- 3 SHALL BE
 18 CONSTRUED AS IN ANY WAY LIMITING OR RESTRICTING THE ABILITY
 19 OF ANY BANK HAVING ITS MAIN OFFICE IN THIS STATE TO
 20 ESTABLISH A TRUST CORRESPONDENT RELATIONSHIP WITH ANY OTHER
 21 BANK HAVING TRUST POWERS.

22 Section 10. Effective date. This act is effective on
 23 its passage and approval.

-End-